

ONECOMM CORPORATION

- **SMR service provider**

Allocation Issues

- **Supports the proposal to establish MTA-wide licenses in the upper 10 MHz of contiguous SMR spectrum and to designate the remaining 800 MHz SMR category channels for local licensing on a station-by-station basis. (8-9)**
- **Contiguous spectrum for wide-area spectrum is necessary for regulatory parity. Contiguous spectrum will enable SMR operators to utilize digital technologies that are currently available to cellular and PCS competitors and will allow SMR operators to take advantage of economies of scale with respect to equipment. (11-12)**
- **A single 10 MHz block would better fulfill the Commission's goals than the proposed four block allocation. If the Commission determines that multiple MTA licensees are necessary, Onecomm proposes two licenses, one with 120 channels, and one with 80 channels. (12-13)**
- **Allocation of the upper 200 MHz channels to four 2.5 MHz licenses per MTA is unworkable. Because a typical five-channel incumbent system is licensed for five noncontiguous channels, an MTA licensee desiring to relocate would be forced to coordinate with other MTA licensees. Reducing the number of licensees per MTA to two would reduce the potential for incumbent system overlap. (13-14)**
- **The Commission's proposed allocation is based on the calculation that a minimum of 42 channels is needed to implement existing wide area SMR technology. However, the Commission should look beyond existing systems. OneComm's proposal would allow the development of new SMR technology. (14-15)**
- **The allocation of four licenses would undercut the goals of regulatory parity. The proposed 2.5 MHz of spectrum is insignificant when compared to the permissible maximum of cellular and PCS licensees. (15)**
- **No limit to aggregation of 800 MHz spectrum is necessary to supplement the applicable 45 MHz cap on accumulation of broadband PCS. (24)**

- The lower 80 non-contiguous channels should be licensed on a channel-by-channel basis, which would more readily support stand-alone systems. (28)
- Voluntary MTA-wide licensing of single or aggregated local channels should be permitted. This regime would mirror the configuration of MTA licenses thereby making local channels more fungible. (29)

MTA Licensee Rights and Obligations

- Self-coordinated construction anywhere within an MTA would encourage operational flexibility and should be implemented, provided that co-channel protection is afforded. (24-25)

Construction Requirements

- A five-year construction period with three-year and five-year coverage benchmarks will assist the development of contiguous-spectrum systems. If voluntary relocation is adopted, however, a 10-year build-out requirement should be adopted. (26-27)
- Coverage should be defined as single-channel coverage for purposes of meeting MTA-license construction benchmarks. ((27)
- Supports measures to prevent warehousing of local channels, including establishment of a uniform twelve-month construction period and a requirement to commence service at the end of the construction period. (29-30)

Incumbent Rights and Obligations

- Urges the Commission to adopt the voluntary-to-mandatory relocation program implemented in the Emerging Technologies docket. (16)
- Voluntary frequency relocation is insufficient to yield contiguous SMR spectrum. The voluntary relocation procedure and the Commission's proposal that MTA licenses be forfeited for failure to meet coverage benchmarks incents incumbents to refuse to sell or relocate and instead to wait until the MTA licensee's deadline approaches. (17-18)
- The negative impact of voluntary relocation would be even more acute with the allocation of four license blocks. The combination of hold-out

local licensees and the necessity of coordination among four MTA licensees would result in little or no relocation. (18-19)

- Voluntary relocation would draw the Commission into many disputes regarding "sufficient inducement" and reasonable refusals. (19)
- OneComm's proposal includes the following features:
 - Frequency relocation would become mandatory one year from the date of the final rules. The MTA licensee would then have two years to request mandatory relocation. (20)
 - All 800 MHz SMR channels would be designated as equivalent for frequency relocation purposes. Frequency relocation to other bands could be performed only by consent of the incumbent. (21)
 - Relocation would be at the expense of the MTA licensee. The Commission should define in this rulemaking which expenses are reimbursable. (21-22)
 - If an incumbent is relocated from a frequency re-used by other stations licensed to the incumbent, the incumbent may require relocation of that frequency for all such stations within the MTA. (22)
 - The relocated system must operate at the same quality and capacity as the old system. (22)
 - During the voluntary phase, licensing would be accomplished by joint application between the MTA licensee and the incumbent. (23)
- Expansion of incumbent systems beyond existing service areas should be allowed only by consent of the MTA licensee. But, incumbent licensees should be allowed to construct low power fill-in sites so long as the contour does not extend beyond the existing service area. (25)
- Incumbent licensees should be afforded co-channel interference protection. (25)

Treatment of General Category Channels and Intercategory Sharing

- Supports allocation of all the General Category channels to SMR use. Because the General Category channels are contiguous, they would be attractive frequency relocation candidates for smaller systems. Eligibility should be divided between SMR and non-SMR channels. (27-28)

**ORGANIZATION FOR THE PROTECTION AND ADVANCEMENT
OF SMALL TELEPHONE COMPANIES**

- Trade association

Auction Issues

- Granting special bidding provisions to rural LECs will help to ensure that they will participate in the auctions. (6)
- Urges the FCC to provide rural telephone companies with the full benefits of designated entity status. (8)

Other Issues

- Supports the FCC proposal to eliminate the wireline/SMR ownership prohibition. (3)

**PARKINSON ELECTRONICS COMPANY, INC.
BANKS TOWER COMMUNICATIONS, LTD.
SPEED-NET
PEACOCK'S RADIO AND WILD'S COMPUTER SERVICE, INC.
MOBILE RELAYS, INC.**

- SMR operators

Allocation Issues

- Support the comments of PCIA that urge the FCC to (1) assign channels in blocks of 10, (2) assign channels in areas smaller than MTAs, (3) assign channels in a two-step process without auctions, and (4) protect incumbents without mandatory retuning. (iii)
- MTA license areas are far too large. (9)
- Commenters could not compete for licenses which consist of 50 channel blocks. (9)

Auction Issues

- Commenters are strongly opposed to any auction of channels in this band. (11)

Incumbent Rights and Obligations

- Commenters would be devastated by mandatory relocation as proposed by Nextel. (6)
- Mandatory relocation only serves Nextel. (7)
- Allowing wide area licensees to sub-license spectrum will force the incumbent to accept intolerable conditions. Sub-licensing has the potential to de-value incumbents' spectrum. (10)

Application Procedures

- Supports the two-step licensing proposal submitted by PCIA, which would restrict Step 1 applications to entities seeking to convert existing operations into wide area operations. (10)

THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION ("PCIA")

- Trade association created to represent the interests of CMRS and PMRS users and businesses

Allocation Issues

- Supports concept of wide-area licensing, but objects to several significant aspects of the FCC's proposals. (2)
- Urges the FCC to devise rules that refrain from sacrificing existing operators in order to raise money through auctions, and to recognize that a competitive market can exist with large and small SMRs rather than trying to create a single, jumbo SMR carrier to compete with cellular. (8-9)
- Believes the FCC's proposed 50-channel block is too large to permit licensees to participate and create competition. Supports a maximum channel block of 10 channels to be licensed in a geographic area. (12)
- Smaller channel blocks will encourage participation by smaller entities, and will allow larger entities to select frequencies of true interest for their applications, leaving the remaining channels for other incumbents. (13)
- Smaller blocks also allow continuation of the existing rules, which permit independent operators to cooperate to create wide-area networks, enabling a wider pool of participants and minimizing marketplace disruption. (14)
- The smaller block plan permits the Commission to extend the program to the 856/860 MHz SMR pool, making all 280 channels available for wide-area licensing. (14)
- The Commission's suggestion that 50 channel blocks approximate the 42 channel threshold for frequency reuse assumes that all wide-area applicants want to use a frequency reuse pattern similar to Nextel's proposal, ignoring the possibility of other spectrum efficient technologies (such as Geotek's) that do not use cellular-type configurations. (15)

- Believes that the FCC's proposal to issue licenses on an MTA basis is too large for a reasonable build-out, artificially limits the number of potential licensees, and could lead to spectrum warehousing. (19-20)
- Believes that BTA licenses are too small for a reasonable build-out in larger metropolitan areas and that they are too small to accommodate a single transmitter site. (20)
- Suggests two alternatives: (a) use of MSAs, which represent more natural service areas but are still too small in the largest urban areas, where CMSAs should be used; or (b) BEAs, which are more closely akin to the normal pattern of wide-area wireless service. (20-21)
- Believes that the FCC cannot create contiguous spectrum in Canada/Mexico border areas. (11-12)

Auction Issues

- Recommends acceptance of applications in two phases. In Phase 1, existing licensees would be allowed to seek a wide-area license converting existing operations into wide-area operations. Phase 1 would be a modification rather than a new license. In Phase 2, the Commission would accept applications for areas and frequencies not assigned wide-area licenses during Phase 1. Phase 2 licenses would be considered new and would be subject to mutually exclusive applications. (17-18)
- Opposes 800 MHz wide-area licensing through auctions, claiming that the Commission would be prohibited by Section 309(j) from conducting auctions for Phase 1, and that, with regard to Phase 2, the Commission's auction proposal would interrupt an existing service (as opposed to initial applications) in a manner contrary to Congressional intent. (18-19)

Construction Requirements

- If some spectrum remains available for licensing on a transmitter site basis, believes that extended implementation should continue to be available to qualified licensees, with close Commission review. (14 n.10)
- Supports build out requirements. (20)

Incumbent Rights and Obligations

- Continues its "adamant opposition" to Nextel's mandatory relocation proposal. (10)
- Mandatory relocation only serves Nextel, the sole entity with enough 856/860 MHz spectrum to move incumbents, increases the value of spectrum in an auction only to Nextel, creates an uneven playing field by making channels more valuable to Nextel alone, and limits participation in the wide-area licensing process to Nextel. (10)
- Result would be to completely devalue every transmitter-based license in the 861-865 MHz band. (11)
- Maintains that in at least one-third of the country (Mexican and Canadian border areas), the Commission cannot create contiguous spectrum in the 800 MHz band, eroding the rationale for mandatory relocation. (11-12)

Treatment of General Category Channels and Intercategory Sharing

- Opposes allocating the General Category channels solely for carrier use, arguing that business and public safety users need these channels. (15-16)
- Shares the Commission's concern that continued carrier eligibility will deplete the General Category frequencies, but favors continued licensing on a site-by-site basis and rigorous enforcement of construction rules to keep these channels available in areas where opportunities for access exist. (16)

PITTENCRIEFF COMMUNICATIONS, INC.

- SMR service provider with approximately 38,000 subscriber units in service

Allocation Issues

- Many of the rules which impeded growth in the SMR industry were eliminated by the FCC in other proceedings. The FCC proposals do not adequately preserve the ability of all SMR providers to offer all types of services. (2-3)
- Supports FCC plan to license four blocks of 2.5 MHz each in the upper 10 MHz. No more than 7.5 MHz should be initially controlled by one entity. MTA licensees should be allowed to employ additional channels in lower SMR and General Category channels under the rules appropriate for their use. After five years, one entity could be allowed to control all 10 MHz if the FCC found that this was in the public interest. (5-6)
- Supports licensing wide-area operations on an MTA basis. The FCC should continue to license the lower channels and the General Category channels on a site specific basis. Because of the existing landscape and the local nature of these services, this approach makes the most sense. (7)
- Supports FCC approach to license MTA blocks on a uniform basis without distinguishing border from non-border areas. (9)

Auction Issues

- Supports auctions for upper 200 channels but no auctions should be conducted for the local SMR channels. The services provided on local channels are not substantially similar to other forms of CMRS and therefore do not need to be subject to similar rules. (5,8)
- Because the winning MTA licensee will have to negotiate with several incumbent licensees, the FCC should only require an upfront payment of \$0.002 per pop per MHz. Supports the FCC's other proposals concerning down payments, bid withdrawals, default, and disqualification rules.(18)

- Supports FCC proposals regarding transfer of licenses and identification of parties to agreements. (19)
- Does not object to special provisions for designated entities. However, special treatment for rural telephone companies is not supported by the record. (19-20)
- Because commenter opposes auctioning of lower 80 channels, also opposes entrepreneurs block in that band. (20)

MTA Licensee Rights and Obligations

- The FCC should strengthen the co-channel interference criteria. A minimum of a 40/22 dBu co-channel separation criteria should be observed in virtually every context. Systems which do not conform to this criteria have prevented legitimate operators from moving transmitter facilities for a variety of sound business reasons. (8-9)

Construction Requirements

- The FCC should strictly enforce the one-year construction deadline to prevent spectrum warehousing. The regulations which permit licensees to obtain additional channels once they construct their initially authorized frequencies will allow local SMR systems to form wide-area systems. (13)
- Because a consolidator might be able to prevent an MTA licensee from meeting its construction requirements (which should be strictly enforced), an MTA licensee should be able to satisfy its coverage requirements either by building out a system covering 75% of the population or 75% of the geographic area. (14-15)

Incumbent Rights and Obligations

- Opposes mandatory retuning. It is unnecessary for the creation of wide-area services and unfair to current operators. (11)
- Incumbent licensees should be permitted to relocate their facilities if they observe the 40/22 dBu co-channel separation criteria, since otherwise they would be hostages to site owners. The 40/22 dBu co-channel separation standard could be reduced in favor of a local licensee within the coverage area of an MTA system unless the MTA licensee had already constructed co-channel facilities at a particular site. The MTA

licensee would be required to observe the 40/22 dBu co-channel separation requirement as it applied to the local licensee. (11-12)

- Supports FCC proposal to apply out of band emission rules only to "outer" channels included in an MTA license and to spectrum adjacent to interior channels used by incumbents. (13)

Treatment of General Category Channels and Intercategory Sharing

- The lower 80 channels and the General Category channels should be available for SMR use and the rules governing these channels should remain the same as today, except that there should be greater protection for co-channel licensees. (4,15-16)

Application Procedures

- Supports FCC plan to allow both existing licensees and new applicants to be eligible for MTA and local licenses and to use procedures for MTA licensing similar to those adopted for PCS systems, as long as incumbent licensees are protected. (16)
- Most applications for modification to existing facilities should not be subject to petitions to deny or competitive applications if they do not affect a station's coverage area since applications that may be competitive with an existing operator may only serve to curtail a licensee's service to the public. (17)
- Applications for new channels could be subject to competitive application filed within thirty days. (17)

Other

- There should be no presumption that CMRS status attaches to the lower 80 or 150 General Category channels. (18)

PROTEC MOBILE COMMUNICATIONS

- Woman-owned small SMR operator

Incumbent Rights and Obligations

- Because five of petitioner's channels are located on a helicopter/solar site, relocation would be out of the question for these customers. (1)
- Petitioner is concerned that even though she played the FCC "loading game" on her 800 MHz and 900 MHz channels, she cannot file for expansion. (1)

PRO TEC MOBILE COMMUNICATIONS, INC.

- **SMR operator in Phoenix, Arizona**

Allocation Issues

- **Objects to market-based, rather than facility-based, licensing, since: (1) market based licensing is not necessary to create wide-area systems and systems are naturally evolving to wide-area operation; (2) the proposed scheme is anticompetitive and would benefit only a handful of companies; (3) given the situation as it exists today, Nextel would likely be the only bidder in many areas, which is not in the public interest; and (4) the FCC is proposing to auction what ESMRs can already buy -- frequency rights to operate wide-area systems. (6-7)**
- **The existing system works well in serving the legitimate needs of the public in an efficient manner; the proposals tendered by the FCC are thus inconsistent with Congress's goals in enacting auction authority and the public interest. (8)**

Incumbent Rights and Obligations

- **Objects to forced frequency swapping, since: (1) the costs are greater to reprogram hundreds of thousands of mobile units than to retune fixed site receivers as in the PCS/OFS relocation; (2) "fully comparable" alternative frequencies do not exist -- certainly not the 450-460 MHz channels; and (3) ESMRs have not shown themselves willing or able to bear the cost of forced migration. (4-6)**

Other Issues

- **Notes that there is no spectrum available for growth of traditional SMRS -- spectrum is either tied up in ESMR five year plans or by speculators -- and recommends enforcing the rule that requires applications to be prepared by the applicant or counsel only. (2)**
- **Further observes that the FCC might have avoided problems with ESMRs intruding on the operations of existing licensees had it established interim construction benchmarks or not permitted ESMRs to employ the short-spacing rules. (2)**

- Notes that it has been three years since Nextel's waivers were granted and still the vast amount of ESMR spectrum is either unused or used for traditional dispatch. (3)

RADIO COMMUNICATIONS CENTER

- SMR operator

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but, to allow for two MTA licensees in each market, proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)
- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)
- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

Auction Issues

- Opposes auctioning local SMR channels. (6)

MTA Licensee Rights and Obligations

- MTA licensees should be required to observe a 40/22 dBu co-channel separation, as should all licensees. (4)
- MTA licensees should not be able to construct within the 22 dBu contour of incumbent co-channel licensees and local licensees should be prohibited from locating their sites within the 22 dBu contour of other local licensees. (4)

Construction Requirements

- Supports strict enforcement of the one year construction deadline for local SMRs, and the requirement that licensees begin serving customers by the end of the construction period. Also supports strict construction for MTA licensees and license forfeiture for failure to comply. (5)

Incumbent Rights and Obligations

- Opposes mandatory relocation. Relocation should occur only on mutually acceptable terms and conditions. (3-4)
- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (4-5)

Treatment of General Category Channels and Intercategory Sharing

- Urges the Commission to designate all 230 channels (lower 80 and 150 General Category) for SMR use, arguing that without access to all 230 channels, local licensees will be foreclosed from offering service or expanding. (2, 5)
- These channels would be able to be used by local licensees, existing wide-area systems, or combined to form new wide-area systems, but should be subject to existing rules, with greater co-channel interference protection. They should not be authorized for use throughout an MTA unless actually licensed and constructed at sites in the MTA. (2)
- Urges the Commission not to foreclose local SMRs from the Business and Industrial/Land Transportation channels for expanding their operations. (5-6)

Other Issues

- Urges the Commission to take this opportunity to strengthen its co-channel interference criteria to a strict 40-22 dBu standard and to restrict "short spacing." (3)
- The FCC should presumptively classify all MTA licensees as CMRS. There should be no presumption of CMRS status on the lower 80 or 150 General Category channels. (6)

RASERCO, INC.

- **SMR operator**

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels but, to allow for two MTA licensees in each market, proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)
- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)
- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

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Treatment of General Category Channels and Intercategory Sharing

- Urges the Commission to designate all 230 channels (lower 80 and 150 General Category) for SMR use, arguing that without access to all 230 channels, local licensees will be foreclosed from offering service or expanding. (2, 5)
- These channels would be able to be used by local licensees, existing wide-area systems, or combined to form new wide-area systems, but should be subject to existing rules, with greater co-channel interference protection. They should not be authorized for use throughout an MTA unless actually licensed and constructed at sites in the MTA. (2)
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RAYFIELD COMMUNICATIONS, INC.

- **SMR operator**

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- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)
- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

Auction Issues

- Opposes auctioning local SMR channels. (6)

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ROBERT FETTERMAN d/b/a R.F. COMMUNICATIONS

- SMR operator

Allocation Issues

- R.F. Communications believes that the FCC's proposal to auction 200 SMR channels on an MTA basis is impractical and unworkable and, if attempted, would injure the already established SMR industry. (Incorporates its Reply Comments opposing Nextel's original proposal in this proceeding.) (1-2)

**CHIEF COUNSEL FOR ADVOCACY OF THE UNITED STATES
SMALL BUSINESS ADMINISTRATION**

- Federal government agency

Allocation Issues

- The Commission's proposals are not in the public interest. (7)
- Modifying the SMR rules to provide an effective alternative to cellular or PCS will be of little utility to the vast majority of SMR customers -- small businesses that need reliable and cost effective two-way communications. (9,10)
- The FCC should prohibit any one licensee from owning more than 10 MHz of SMR spectrum in any particular MTA. (25)

Auction Issues

- Assuming that the FCC will not heed commenter's advice to avoid modifying its SMR licensing process, it believes that auctions are the most efficient mechanism for resolving mutually exclusive applications. (11)
- The FCC should designate a small business block similar to the PCS entrepreneurial block. However, the SBA would support any option that would allow small SMR providers to obtain upper portion spectrum without competing against well-financed big businesses such as Nextel, PacTel or Cox Communications. (12-14)
- An auction scheme as outlined by the commenter will make it somewhat more difficult for wide area SMR providers to compete with cellular or PCS, however, the greater public interest is in ensuring that existing SMR licensees can offer optimal levels of cost-effective service to their customers. (15)
- The FCC should not use its PCS definition of small business because the 40 million dollar threshold is far too high for the SMR service. The FCC should obtain revenue data from appropriate trade associations to determine the proper level. (19)
- The proposed up-front payment of \$.02 per pop is too high in the SMR context since SMR operators do not seek to provide service to the

general public. The up-front payment for entry into the entrepreneurial block should be limited to \$2500 for local service and \$5000 for wide area networks. (21)

Construction Requirements

- Opposes strict prohibition against extended implementation schedules for local service licensees. (22)

Incumbent Rights and Obligations

- Does not object to the use of arm-length's transactions by MTA licensees to relocate incumbents, but is concerned by the FCC's suggestion that it might intervene if incumbents refuse reasonable inducements to relocate. (26)
- Incumbents should be permitted to expand into the territory of the MTA licensee. (29)
- The FCC should not reduce the level of co-channel protection to incumbent systems. (30)

SMR SMALL BUSINESS COALITION

- Coalition of small SMR service providers

Allocation Issues

- The auctioning of overlaid MTA systems would cause severe harm to the small businesses operating incumbent SMR systems as well as their customers, which rely on these systems for low-cost two way communications. (2)
- Largely ignored by existing cellular services and prospective enhanced SMR services, small businesses continue to demand the traditional no-frills, low cost services provided by local SMRs. (6)
- Given the allocations for PCS, cellular and 900 MHz SMR, there is more demand for local area 800 MHz SMR service than wide area SMR service. (10, 11)

Auction Issues

- The FCC does not possess clear authority to auction SMR spectrum that has been previously licensed and presently is in operation. (8)

Incumbent Rights and Obligations

- Under no circumstances should the FCC permit mandatory relocation. (12)
- The Commission's proposal must include effective safeguards for incumbent licensees such as 1) the right to expand into unserved areas and obtain additional upper band channels, 2) limiting the ability of MTA licensees to modify facilities on a self-coordinated basis within 70 miles of incumbents, 3) continuing to allow SMRs to be eligible for pool and general category channels, and 4) allocating sufficient spectrum in the international border areas for local SMR needs. (14)
- Incumbent licensees should be allowed to apply for upper band channels when an upper band channel has remained vacant for over 120 days or where it is possible to extend the service contour of an existing station into an unserved area without interfering with the operations of an MTA licensee. (16)